

The Public Works and Economic Development Act of 1965, referred to in subsec. (f)(2), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§3121 et seq.) of Title 42, The Public Health and Welfare. Title V of the Public Works and Economic Development Act of 1965, also referred to in subsec. (f)(2), is classified generally to subchapter V (§3181 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

#### AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87, §122(a), (c), substituted “projects” for “demonstration projects” and “a Federal-aid system (other than the Interstate System)” for “the Federal-aid primary system” and deleted “to demonstrate the role that highways can play” before “to promote”.

Subsec. (b). Pub. L. 93-87, §122(a), substituted “projects” for “demonstration projects” and “a Federal-aid system (other than the Interstate System)” for “the Federal-aid primary system”.

Subsec. (c). Pub. L. 93-87, §122(a), substituted “project” for “demonstration project” and “a Federal-aid system (other than the Interstate System)” for “the Federal-aid primary system”.

Subsec. (d). Pub. L. 93-87, §122(a), substituted “highways on the Federal-aid system on which such development highway is located” for “Federal-aid primary highways”.

Subsec. (e). Pub. L. 93-87, §122(b), inserted introductory text “Except as otherwise provided in subsection (c) of this section,” and substituted “the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located” for “the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project”.

#### § 144. Highway bridge replacement and rehabilitation program

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other

highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State, except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section. In approving projects (other than projects for bridge structure painting or seismic retrofit or application of such acetate) under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The square footage of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. For purposes of the preceding sentence, the total cost of deficient bridges in a State and in all States shall be re-

duced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection. The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.

(f) The Federal share payable on account of any project under this section shall be 80 per centum of the cost thereof.

(g) SET ASIDES.—

(1) DISCRETIONARY BRIDGE PROGRAM.—Of the amounts authorized for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 by section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, all but \$57,000,000 in the case of fiscal year 1992, \$68,000,000 in the case of fiscal years 1993 and 1994, and \$69,000,000 in the case of fiscal years 1995, 1996, and 1997 shall be apportioned as provided in subsection (e) of this section. \$49,000,000 in the case of fiscal year 1992, \$59,500,000 in the case of fiscal years 1993 and 1994, and \$60,500,000 in the case of fiscal years 1995, 1996, and 1997 of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of \$49,000,000 in the case of fiscal year 1992, \$59,500,000 in the case of fiscal years 1993 and 1994, and \$60,500,000 in the case of fiscal years 1995, 1996, and 1997 shall be at the discretion of the Secretary, and \$8,500,000 per fiscal year (\$8,000,000 in the case of fiscal year 1992) of the amount authorized for each of such fiscal years shall be available in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to highway timber bridges.

(2) ELIGIBLE DISCRETIONARY PROJECTS.—Subject to section 149(d) of the Federal-Aid Highway Act of 1987, amounts made available by paragraph (1) for obligation at the discretion of the Secretary may be obligated only—

(A) for a project for a highway bridge the replacement or rehabilitation cost of which is more than \$10,000,000, and

(B) for a project for a highway bridge the replacement or rehabilitation cost of which is less than \$10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) for the fiscal year in which application is made for a grant for such bridge.

(3) OFF-SYSTEM BRIDGES.—Not less than 15 percent nor more than 35 percent of the amount apportioned to each State in each of

fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997, shall be expended for projects to replace, rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to highway bridges located on public roads, other than those on a Federal-aid system. The Secretary, after consultation with State and local officials, may, with respect to such State, reduce the requirement for expenditure for bridges not on a Federal-aid system when the Secretary determines that such State has inadequate needs to justify such expenditure.

(4) INDIAN RESERVATION BRIDGES.—Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title.

(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters (1) which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce, and (2) which are (a) not tidal, or (b) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

(i) INVENTORIES AND REPORTS.—The Secretary shall—

(1) report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on projects approved under this section;

(2) annually revise the current inventories authorized by subsections (b) and (c) of this section;

(3) report to such committees on such inventories; and

(4) report to such committees such recommendations as the Secretary may have for improvements of the program authorized by this section.

Such reports shall be submitted to such committees biennially at the same time as the report required by section 307(f)<sup>1</sup> of this title is submitted to Congress.

(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project. Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

(m) REPLACEMENT OF DESTROYED BRIDGES AND FERRYBOAT SERVICE.—

(1) GENERAL RULE.—Notwithstanding any other provision of this section or of any other provision of law, a State may utilize any of the funds provided under this section to construct any bridge which—

(A) replaces any low water crossing (regardless of the length of such low water crossing),

(B) replaces any bridge which was destroyed prior to 1965,

(C) replaces any ferry which was in existence on January 1, 1984, or

(D) replaces any road bridges rendered obsolete as a result of United States Corps of Engineers flood control or channelization projects and not rebuilt with funds from the United States Corps of Engineers.

(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of such construction.

(n) OFF-SYSTEM BRIDGE PROGRAM.—Notwithstanding any other provision of law, with re-

spect to any project not on a Federal-aid system for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the date of the enactment of this subsection from State and local sources for such project in excess of 20 percent of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under this section. Such crediting shall be in accordance with such procedures as the Secretary may establish.

(o) HISTORIC BRIDGE PROGRAM.—

(1) COORDINATION.—The Secretary shall, in cooperation with the States, implement the programs described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of historic bridges.

(2) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off the Federal-aid system to determine their historic significance.

(3) ELIGIBILITY.—Reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of historic bridges shall be eligible as reimbursable project costs under this title (including this section) if the load capacity and safety features of the bridge are adequate to serve the intended use for the life of the bridge; except that in the case of a bridge which is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this subsection shall not exceed the estimated cost of demolition of such bridge.

(4) PRESERVATION.—Any State which proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the bridge available for donation to a State, locality, or responsible private entity if such State, locality, or responsible entity enters into an agreement to—

(A) maintain the bridge and the features that give it its historic significance; and

(B) assume all future legal and financial responsibility for the bridge, which may include an agreement to hold the State highway agency harmless in any liability action.

Costs incurred by the State to preserve the historic bridge, including funds made available to the State, locality, or private entity to enable it to accept the bridge, shall be eligible as reimbursable project costs under this chapter up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to this title.

(5) HISTORIC BRIDGE DEFINED.—As used in this subsection, “historic bridge” means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

<sup>1</sup> See References in Text note below.

(p) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project not on a Federal-aid highway under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(q) As used in this section the term “rehabilitate” in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

(Added Pub. L. 91-605, title II, §204(a), Dec. 31, 1970, 84 Stat. 1741; amended Pub. L. 93-87, title II, §204, Aug. 13, 1973, 87 Stat. 284; Pub. L. 93-643, §113, Jan. 4, 1975, 88 Stat. 2286; Pub. L. 95-599, title I, §124(a), Nov. 6, 1978, 92 Stat. 2702; Pub. L. 96-106, §§7, 8(a), Nov. 9, 1979, 93 Stat. 797; Pub. L. 97-327, §5(c), Oct. 15, 1982, 96 Stat. 1612; Pub. L. 97-424, title I, §§121(a), 122(a), Jan. 6, 1983, 96 Stat. 2111, 2112; Pub. L. 100-17, title I, §§123(a)-(d)(1), (3), (e), (f)(2), 128, 133(b)(11), Apr. 2, 1987, 101 Stat. 161-163, 167, 172; Pub. L. 102-240, title I, §1028(a)-(f), Dec. 18, 1991, 105 Stat. 1967, 1968; Pub. L. 103-220, §1, Mar. 17, 1994, 108 Stat. 100; Pub. L. 104-59, title III, §§318, 325(b), Nov. 28, 1995, 109 Stat. 588, 592.)

#### REFERENCES IN TEXT

Section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (g)(1), probably means section 1003 of Pub. L. 102-240, title I, Dec. 18, 1991, 105 Stat. 1918, which is not classified to the Code. Pub. L. 102-240 does not contain a section 103.

Section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (g)(1), is section 1039 of Pub. L. 102-240, which is set out as a note below.

Section 149(d) of the Federal-Aid Highway Act of 1987, referred to in subsec. (g)(2), is section 149(d) of Pub. L. 100-17, which is not classified to the Code.

The General Bridge Act of 1946, referred to in subsec. (h), is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 525 of Title 33 and Tables.

Section 502(b) of such Act of 1946, referred to in subsec. (h), in section 502(b) of act Aug. 2, 1946, which is classified to section 525(b) of Title 33.

Section 9 of the Act of March 3, 1899, referred to in subsec. (h), is section 9 of act Mar. 3, 1899, ch. 425, 30 Stat. 1151, which is classified to section 401 of Title 33.

Section 307(f) of this title, referred to in subsec. (i), was redesignated section 307(h) by Pub. L. 102-240, title VI, §6005(a), Dec. 18, 1991, 105 Stat. 2170.

The date of enactment of this subsection, referred to in subsec. (k), is Nov. 6, 1978, the date of enactment of Pub. L. 95-599.

The date of the enactment of this subsection, referred to in subsec. (n), is the date of enactment of Pub. L. 100-17, which was approved Apr. 2, 1987.

#### AMENDMENTS

1995—Subsec. (i)(1). Pub. L. 104-59, §325(b), substituted “Committee on Transportation and Infrastructure” for “Committee on Public Works and Transportation”.

Subsec. (l). Pub. L. 104-59, §318, inserted at end “Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.”

1994—Subsec. (d). Pub. L. 103-220, §1(1), inserted before period at end of third sentence “, except that a

State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section”.

Subsec. (e). Pub. L. 103-220, §1(2), inserted at end “The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.”

1991—Subsec. (c)(3). Pub. L. 102-240, §1028(a), added par. (3).

Subsec. (d). Pub. L. 102-240, §1028(b), inserted “Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure.” after first sentence and “(other than projects for bridge structure painting or seismic retrofit or application of such acetate)” after “projects” in last sentence.

Subsec. (f). Pub. L. 102-240, §1028(c), substituted “project” for “highway bridge replaced or rehabilitated”.

Subsec. (g)(1). Pub. L. 102-240, §1028(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Of the amount authorized per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 by section 106(a)(5) of the Federal-Aid Highway Act of 1987, all but \$225,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. \$225,000,000 per fiscal year of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such \$225,000,000 shall, subject to section 149(d) of the Federal-Aid Highway Act of 1987, be at the discretion of the Secretary.”

Subsec. (g)(3). Pub. L. 102-240, §1028(e)(1), substituted “1991, 1992, 1993, 1994, 1995, 1996, and 1997” for “and 1991” and “, rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to” for “or rehabilitate”.

Subsec. (g)(4). Pub. L. 102-240, §1028(f), added par. (4).

Subsecs. (p), (q). Pub. L. 102-240, §1028(e)(2), added subsec. (p) and redesignated former subsec. (p) as (q).

1987—Subsec. (e). Pub. L. 100-17, §133(b)(11), inserted at end “Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection.”

Pub. L. 100-17, §123(d)(3), inserted after third sentence “For purposes of the preceding sentence, the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services.”

Subsec. (g). Pub. L. 100-17, §123(a), amended subsec. (g) generally, revising and restating as pars. (1) to (3) provisions formerly contained in pars. (1) and (2).

Subsec. (h). Pub. L. 100-17, §123(b), substituted “(1)” for “which are not subject to the ebb and flow of the tide, and” and added cl. (2).

Subsec. (i). Pub. L. 100-17, §128, substituted “307(f)” for “307(e)” in last sentence.

Pub. L. 100-17, §123(c), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: “The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.”

Subsec. (m). Pub. L. 100-17, §123(d)(1), added subsec. (m). Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 100-17, §123(e), which directed that this section be amended by adding subsec. (n) after

subsec. (l), was executed by adding subsec. (n) after subsec. (m), to reflect the probable intent of Congress.

Subsec. (o). Pub. L. 100-17, §123(f)(2), which directed that this section be amended by adding subsec. (o) after subsec. (l), was executed by adding subsec. (o) after subsec. (n), to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 100-17, §123(d)(1), redesignated former subsec. (m) as (p).

1983—Subsec. (e). Pub. L. 97-424, §121(a), substituted provisions setting forth categorization, formula for apportionment factors, and limitations respecting deficient bridges for provisions relating to apportionment of funds for fiscal years ending Sept. 30, 1979, through Sept. 30, 1983, availability for expenditure of such funds, and reapportionment by the Secretary.

Pub. L. 97-327, §5(c)(1), substituted “September 30, 1982, and September 30, 1983” for “and September 30, 1982”.

Subsec. (g). Pub. L. 97-424, §122(a), designated existing provisions as par. (1), struck out provisions added by section 5(c)(2) of Pub. L. 97-327 relating to apportionment of amounts for fiscal year ending Sept. 30, 1983, and added par. (2).

Pub. L. 97-327, §5(c)(2), inserted provision that, of the amount authorized for the fiscal year ending September 30, 1983, by paragraph (1) of section 5(a) of the Federal-Aid Highway Act of 1982, all but \$200,000,000 (multiplied by the factor determined under section 4(a) of such Act) be apportioned, and that \$200,000,000 (multiplied by such factor) of the amount authorized for such fiscal year be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date with specific limitations applicable to the obligation of such \$200,000,000.

1979—Subsec. (d). Pub. L. 96-106, §7(a), substituted “such bridge with a comparable facility or in rehabilitating such bridge” for “or rehabilitating such bridge with a comparable facility”.

Subsec. (g). Pub. L. 96-106, §8(a), inserted “, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than \$10,000,000 if such costs is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge”.

Subsec. (m). Pub. L. 96-106, §7(b), substituted “major work” for “major repairs”.

1978—Subsec. (a). Pub. L. 95-599 substituted provisions relating to Congressional findings as to highway bridge replacement and rehabilitation for provisions relating to Congressional findings as to special bridge replacement.

Subsec. (b). Pub. L. 95-599 added cl. (4).

Subsec. (c). Pub. L. 95-599 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95-599 redesignated former subsec. (c) as (d) and among other amendments struck out provisions requiring Secretary to consider economy of area and approval of projects without regard to allocation formulas under this title.

Subsec. (e). Pub. L. 95-599 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95-599 redesignated former subsec. (d) as (f), substituted “80” for “75”, and inserted “highway” after “account of any”. Former subsec. (f) was struck out.

Subsec. (g). Pub. L. 95-599 redesignated former subsec. (e) as (g) and inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979 through Sept. 30, 1982. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-599 redesignated former subsec. (g) as (h) and inserted provisions relating to exceptions to applications of the General Bridge Act of 1946. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95-599 redesignated former subsec. (h) as (i) and inserted provisions relating to revision and report of current inventories.

Subsecs. (j) to (m). Pub. L. 95-599 added subsecs. (j) to (m).

1975—Subsec. (e). Pub. L. 93-643 increased appropriations authorization to \$125,000,000 from \$75,000,000 for fiscal year ending June 30, 1976.

1973—Subsec. (e). Pub. L. 93-87, §204(a), provided for appropriations authorization of \$25,000,000, \$75,000,000, and \$75,000,000 for fiscal years ending June 30, 1974, 1975, and 1976.

Subsecs. (f) to (h). Pub. L. 93-87, §204(b), (c), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 123(d)(2) of Pub. L. 100-17 provided that: “The amendment made by subsection (a) [amending this section] shall apply to funds apportioned to the States under section 144 of title 23, United States Code, after September 30, 1986.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 121(b) of Pub. L. 97-424 provided that: “The amendment made by subsection (a) of this section [amending this section] shall take effect October 1, 1982, and shall apply with respect to each fiscal year beginning on or after such date. Notwithstanding subsection (e) of section 144 of title 23, United States Code, as soon as practical after the date of enactment of this Act [Jan. 6, 1983], the Secretary of Transportation shall apportion under such subsection (e), as amended by subsection (a) of this section, sums authorized to be appropriated to carry out such section 144 for the fiscal year ending September 30, 1983.”

#### HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM

Section 1039 of Pub. L. 102-240, as amended by Pub. L. 102-388, title IV, §408, Oct. 6, 1992, 106 Stat. 1564, provided that:

“(a) RESEARCH GRANTS.—The Secretary may make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity to carry out research on 1 or more of the following:

“(1) Development of new, economical highway timber bridge systems.

“(2) Development of engineering design criteria for structural wood products for use in highway bridges in order to improve methods for characterizing lumber design properties.

“(3) Preservative systems for use in highway timber bridges which demonstrate new alternatives and current treatment processes and procedures and which are environmentally sound with respect to application, use, and disposal of treated wood.

“(4) Alternative transportation system timber structures which demonstrate the development of applications for railing, sign, and lighting supports, sound barriers, culverts, and retaining walls in highway applications.

“(5) Rehabilitation measures which demonstrate effective, safe, and reliable methods for rehabilitating existing highway timber structures.

“(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as may be necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interested persons.

“(c) CONSTRUCTION GRANTS.—

“(1) AUTHORITY.—The Secretary shall make grants to States for construction of highway timber bridges on public roads.

“(2) APPLICATIONS.—A State interested in receiving a grant under this subsection must submit an application therefor to the Secretary. Such application shall be in such form and contain such information as the Secretary may require by regulation.

“(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on the following criteria:

“(A) Bridge designs which have both initial and long-term structural and environmental integrity.

“(B) Bridge designs which utilize timber species native to the State or region.

“(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

“(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

“(d) FEDERAL SHARE.—The Federal share of the costs of research and construction projects carried out under this section shall be 80 percent.

“(e) FUNDING.—From the funds reserved from apportionment under section 144(g)(1) of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

“(1) \$1,000,000 shall be available to the Secretary for carrying out subsections (a) and (b); and

“(2) \$7,500,000 (\$7,000,000 in the case of fiscal year 1992) shall be available to the Secretary for carrying out subsection (c).

Such sums shall remain available until expended.

“(f) STATE DEFINED.—For purposes of this section, the term ‘State’ has the meaning such term has under section 101 of title 23, United States Code.”

#### FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM

Section 1089 of Pub. L. 102-240 directed Secretary of Transportation to conduct a study of advisability and feasibility of establishing an international border highway infrastructure discretionary program and, not later than Sept. 30, 1993, transmit to Congress a report on results of the study, together with any recommendations.

#### HISTORIC BRIDGES; CONGRESSIONAL FINDINGS AND DECLARATIONS

Section 123(f)(1) of Pub. L. 100-17 provided that: “Congress hereby finds and declares it to be in the national interest to encourage the rehabilitation, reuse and preservation of bridges significant in American history, architecture, engineering and culture. Historic bridges are important links to our past, serve as safe and vital transportation routes in the present, and can represent significant resources for the future.”

#### STUDY BY TRANSPORTATION RESEARCH BOARD ON EFFECTS OF BRIDGE PROGRAM ON PRESERVATION AND REHABILITATION OF HISTORIC BRIDGES; RECOMMENDATION OF STANDARDS FOR REHABILITATION OF HISTORIC BRIDGES; REPORT

Section 123(f)(3) of Pub. L. 100-17 provided that:

“(A) TRANSPORTATION RESEARCH BOARD.—The Secretary shall make appropriate arrangements with the Transportation Research Board of the National Academy of Sciences to carry out a study on the effects of the bridge program conducted under section 144 of title 23, United States Code, on the preservation and rehabilitation of historic bridges. The Transportation Research Board shall also develop recommendations of specific standards which shall apply only to the rehabilitation of historic bridges, and shall provide an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

“(B) REPORT.—Not later than 1 year after entering into appropriate arrangements under subparagraph (A), the Transportation Research Board shall submit to the Secretary and the Committee on Environment and

Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subparagraph (A) and on the recommendations developed pursuant to subparagraph (A).”

#### STUDY OF HIGHWAY BRIDGES WHICH CROSS RAIL LINES; REPORT

Section 160 of Pub. L. 100-17 directed Secretary to conduct a comprehensive study and investigation of improvement and maintenance needs for highway bridges which cross rail lines and whose ownership has been disputed and, not later than 30 months after Apr. 2, 1987, submit to Congress a report on the study and investigation along with recommendations on how the bridge needs could best be addressed on a long term basis in a cost-effective manner.

#### FOUR-LANE BRIDGES

Section 130 of Pub. L. 97-464 provided that: “Whenever any law of the United States, enacted after January 1, 1970, and before the date of enactment of this Act [Jan. 6, 1983], authorizes payment, in financing the relocation of an existing road, for the cost of construction of a two-lane bridge with a substructure and deck truss capable of supporting a four-lane bridge, payment for the cost of completing the construction of such bridge as a four-lane bridge is authorized upon the completion of such substructure and deck truss.”

#### DISCRETIONARY BRIDGE CRITERIA

Section 161 of Pub. L. 97-424, as amended by Pub. L. 100-17, title I, §123(h), Apr. 2, 1987, 101 Stat. 164, provided that: “The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act [Jan. 6, 1983], including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code, including a bridge replacement of which was partially funded under the Supplemental Appropriations Act, 1983 [Pub. L. 98-63] (97 Stat. 341). Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider are:

“(1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition);

“(2) average daily traffic using the most current value from the national bridge inventory data;

“(3) average daily truck traffic;

“(4) defense highway system status;

“(5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;

“(6) total project cost; and

“(7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.”

#### TRANSFER OF DISCRETIONARY BRIDGE FUNDS

Section 8(b) of Pub. L. 96-106 provided for the transfer of discretionary bridge funds authorized under subsec. (g) of this section for fiscal year 1980 to a State's apportionment under section 104(b)(6) of this title to repay funds obligated under section 104(b)(6) between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment of subsec. (g) of this section by section 8(a) of Pub. L. 96-106.

TIME FOR COMPLETION OF INVENTORY AND  
CLASSIFICATION OF HIGHWAY BRIDGES

Section 124(c) of Pub. L. 95-599 directed Secretary of Transportation to complete the requirements of subsec. (c) of this section, as amended by subsec. (a) of section 124 of Pub. L. 95-599, not later than the last day of the second full calendar year which begins after Nov. 6, 1978.

ACCELERATION OF BRIDGE PROJECTS; OHIO RIVER  
BRIDGE FUND REPROGRAMMING; REPORTS TO CONGRESS

Section 147 of Pub. L. 95-599, as amended by Pub. L. 96-106, § 15, Nov. 19, 1979, 93 Stat. 798; Pub. L. 99-272, title IV, § 4105, Apr. 7, 1986, 100 Stat. 116, directed Secretary of Transportation to conduct two projects to construct or replace high-traffic-volume bridges on the Federal-aid highway system which span major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges; authorized funds for the projects; directed Secretary to report to Congress within six months after the completion of each project; redirected certain funds in excess of amounts needed to complete the projects for use in further projects for construction of three state-of-the-art Ohio River bridges linking designated cities in Kentucky and Ohio; and directed Secretary to report to Congress within a year after the completion of these bridges.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 115, 140, 151, 157, 204, 303, 307, 409 of this title.

**§ 145. Federal-State relationship**

The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

(Added Pub. L. 93-87, title I, § 123(a), Aug. 13, 1973, 87 Stat. 261.)

**§ 146. Carpool and vanpool projects**

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term "carpool" includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.

(Added Pub. L. 95-599, title I, § 126(a), Nov. 6, 1978, 92 Stat. 2705.)

PRIOR PROVISIONS

A prior section 146, Pub. L. 93-87, title I, § 125(a), Aug. 13, 1973, 87 Stat. 262, related to a special urban high density traffic program, prior to repeal by Pub. L. 94-280, title I, § 128(a), May 5, 1976, 90 Stat. 440.

USE OF HIGH OCCUPANCY LANES

Pub. L. 97-424, title I, § 163, Jan. 6, 1983, 96 Stat. 2136, as amended by Pub. L. 100-17, title I, § 133(a)(4), (5), Apr. 2, 1987, 101 Stat. 170, 171; Pub. L. 102-240, title I, § 1056, Dec. 18, 1991, 105 Stat. 2002, provided that: "Notwithstanding any other provision of this Act or any other law, no funds apportioned or allocated to a State for Federal-aid highways shall be obligated for a project for constructing, resurfacing, restoring, rehabilitating, or reconstructing a Federal-aid highway which has a lane designated as a carpool lane unless the use of such lane includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, after notice in the Federal Register and an opportunity for public comment, and acceptance of such certification by the Secretary, the State may restrict such use by motorcycles if such use would create a safety hazard. Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 [Dec. 18, 1991] shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification."

EXPENDITURE OF ADMINISTRATIVE FUNDS FOR  
CARPOOLING AND VANPOOLING PROGRAMS

Pub. L. 97-424, title I, § 123(b), Jan. 6, 1983, 96 Stat. 2113, provided that: "The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 126 of the Federal-Aid Highway Act of 1978 [section 126(d) of Pub. L. 95-599, set out as a note above]."

GRANTS TO STATES, COUNTIES, ETC., TO PROMOTE  
CARPOOLING AND VANPOOLING PROGRAMS

Section 126(d)-(h) of Pub. L. 95-599, as amended by Pub. L. 102-240, title III, § 3004(b), Dec. 18, 1991, 105 Stat. 2088, provided that:

"(d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

"(e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

"(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed \$1,000,000 for the fiscal year ending September 30, 1979, \$1,000,000 for the fiscal year ending September 30, 1980, and \$1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d)